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Attorney for Plaintiff

5

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 FREIDA LAUB,)
9 Plaintiff,) No.
vs.)
10 WAKEFIELD & ASSOCIATES, INC.,)
11 a foreign corporation,)
12 Defendant.) JURY DEMANDED

13 COMPLAINT

14 JURISDICTION

15 1. The jurisdiction of this Court attains pursuant to the FDCPA, 15 U.S.C. § 1692k(d),
16 28 U.S.C. § 1331, 28 U.S.C. § 1332, and the doctrine of supplemental jurisdiction. Venue lies in
17 the Southern Division of the Judicial District of Nevada as Plaintiff's claims arose from acts of the
18 Defendant(s) perpetrated therein.

19 PRELIMINARY STATEMENT

20 2. This action is instituted in accordance with and to remedy Defendant's violations of
21 the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter "FDCPA"), and
22 of related state law obligations brought as supplemental claims hereto.

23 3. In 2009, Defendant initiated a campaign of abusive, unfair, unreasonable, and
24 unlawful debt collection activity directed against Plaintiff.

25 4. As a result of these and other violations of law, Plaintiff seeks hereby to recover
26 actual and statutory damages together with reasonable attorney's fees and costs.

PARTIES

5. Plaintiff, Freida Laub, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by 15 U.S.C. Section 1692a(5).

6. Defendant, Wakefield & Associates, Inc. is a foreign corporation, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Aurora, Colorado, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

FACTUAL ALLEGATIONS

7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.

8. Plaintiff suffers from Degenerative Multiple Sclerosis.

9. This disease has severely impacted Plaintiff's life.

10 Plaintiff can only work on a limited basis and consequently earns a limited income.

11. The alleged \$967.00 debt underlying this action relates to Plaintiff's daughter's surgery.

12. Plaintiff's daughter is 22.

13 Defendant has made several harassing phone calls to both Plaintiff and her daughter.

14 Plaintiff has serially asked Defendant not to call

15. During one call made during approximately early June 2009, Defendant's representative threatened Plaintiff with legal action in violation of FDCPA §§ 1692e and 1692e(5).

16. Defendant also threatened to “attach” Plaintiff’s wages in violation of FDCPA §§ 1692e and 1692e(5).

17. On June 8, 2009, Plaintiff wrote Defendant advising of her *refusal to pay* (Exhibit 1).

18. Plaintiff's written refusal to pay required Defendant to cease and desist all collection communications in accordance with FDCPA § 1692c(c):

(c) **Ceasing communication** - *If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt.*

19. Defendant received Exhibit 1 on June 10, 2009 (Exhibit 2).

20. Notwithstanding, Defendant dunned Plaintiff on June 11, 2009 (Exhibit 3).

21. Exhibit 3 was sent in violation of FDCPA §1692c(c).

22. Defendant's continued phone contacts to Plaintiff, at times and at a place known to be inconvenient to Plaintiff, were made in violation of FDCPA § 1692c(a)(1). Fox v. Citicorp Credit Services, Inc., 15 F.3d 1507, 1516, fn. 10 (9th Cir. 1994), Austin v. Great Lakes Collection Bureau, Inc., 834 F. Supp. 557, 559 (D. Conn. 1993).

23. Defendant's calls exacerbated the symptoms of Plaintiff's disease.

24. The foregoing acts and omissions of Defendant were undertaken by it willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard of the rights of Plaintiff.

25. Indeed, the foregoing acts and omissions of Defendant were undertaken by it indiscriminately and persistently, as part of its regular and routine debt collection efforts, and without regard to or consideration of the identity or rights of Plaintiff.

26. As a proximate result of the foregoing acts and omissions of Defendant, Plaintiff has suffered actual damages and injury, including, but not limited to, stress, humiliation, mental anguish and suffering, and emotional distress, for which Plaintiff should be compensated in an amount to be proven at trial.

27. As a result of the foregoing acts and omissions of Defendant, and in order to punish Defendant for its outrageous and malicious conduct, as well as to deter it from committing similar acts in the future as part of its debt collection efforts, Plaintiff is entitled to recover punitive damages in an amount to be proven at trial.

CAUSES OF ACTION

COUNT I

28. The foregoing acts and omissions of Defendant constitute violations of the FDCPA, including, but not limited to, Sections 1692c, 1692d and 1692e.

29. Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs.

COUNT II

30. The foregoing acts and omissions constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49, 1453 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

31. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.

JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
 2. Award punitive damages.
 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
 4. Award reasonable attorney fees.
 5. Award costs.

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6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,

/s/ Mitchell D. Gliner, Esq.

MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
3017 West Charleston Boulevard
Suite 95
Las Vegas, NV 89102
Attorney for Plaintiff

EXHIBIT I

Enclosure

Frieda M. Laub

I do not like you and refuse to pay you.

You.

I am in receipt of your May 14, 2009, correspondence. Thank

Gentlemen:

Wakfeld & Associates, Inc.
3091 S. Jamaica Ct., Suite 200
Aurora, CO 80014-2639

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

June 8, 2009

DEPT 8601
PO BOX 1259
OAKS, PA 19456



05/14/2009
Balance: \$967.57
Account #: 2276-950135


Wakefield & Associates, Inc.
3091 S. Jamaica Court, Suite 200
Aurora, CO 80014-2639
www.wakassoc.com
Telephone: 1-800-864-3870
Fax: 303-337-2901

FREIDA M LAUB
6043 JOURNEYS END ST
LAS VEGAS NV 89148-5524
Hoooooooooooooooooooooooooooooooo

7753-169
Wakefield & Associates, Inc.
PO Box 441590
Aurora, CO 80044-1590
Hoooooooooooooooooooooooooooooooo

Please detach this portion and return with your payment

PLEASE SEE IMPORTANT DISCLOSURE INFORMATION ON REVERSE SIDE

Creditor	Our Acct. #	Principal	Client Interest	Agency Interest	Total
SAHARA SURGERY CENTER	2276-950135	\$967.57	\$0.00	\$0.00	\$967.57

Greetings:

Our client referred your past due account to our Agency for collection on 05/13/2009. If there is some reason why you are unable to make full payment on this outstanding account we ask that you contact our office. This debt is for medical services.

To insure proper credit to your account please make your check payable to Wakefield & Associates, Inc. and indicate your account number on your remittance.

Please tell us about your medical insurance or make payment arrangements by visiting our secure website

www.wakeassoc.com - Click or Credit Card

Your LOGON PIN for the website is : 84398

This will serve as notice for agents, attorneys and employees.

Sincerely,

MARCEL SMITH
1-800-864-3870 EXT:5515
Account Representative



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Track & Confirm

Search Results

Label/Receipt Number: 7005 2570 0000 3475 9242

Service(s): Certified Mail™

Status: Delivered

Your item was delivered at 2:52 PM on June 10, 2009 in AURORA, CO 80014.

[Track & Confirm](#)

Enter Label/Receipt Number.

Detailed Results:

- Delivered, June 10, 2009, 2:52 pm, AURORA, CO 80014
- Arrival at Unit, June 10, 2009, 9:13 am, AURORA, CO 80014

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

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Equal Employment
Opportunity for Individuals



American Recovery
and Reinvestment Act

EXHIBIT 2

DEPT 8601
PO BOX 1259
OAKS, PA 19456



06/11/2009
Balance: \$977.11
Account #: 2276-950135

Wakefield & Associates, Inc.
3091 S. Jamaica Court, Suite 200
Aurora, CO 80014-2639
www.wakeassoc.com
Telephone: 1-800-864-3870
Fax: 303-537-2901

FREIDA M LAUB
6043 JOURNEYS END ST
LAS VEGAS NV 89148-5524

Wakefield & Associates, Inc.
PO Box 441590
Aurora, CO 80044-1590

7753-65

Please detach this portion and return with your payment

PLEASE SEE IMPORTANT DISCLOSURE INFORMATION ON REVERSE SIDE

Creditor	Our.Acct.#	Principal	Interest	Interest	Total
SAHARA SURGERY CENTER	2276-950135	\$967.57	\$0.00	\$9.54	\$977.11

*****FINAL NOTICE*****

IF THIS ACCOUNT IS NOT PAID IN FULL BY 06/22/2009 it can be reported to the CREDIT BUREAU and/or
FORWARDED TO AN AGENCY IN YOUR AREA FOR FUTHER COLLECTION EFFORTS.

Our client rendered services or products to you in good faith. It is your obligation to make a payment to our client.

Call me.

You can make payment arrangements by visiting our secure website.

www.wakeassoc.com - Check or Credit Card

Your LOGON PIN for the website is : 84398

Sincerely,

MARCEL SMITH
1-800-864-3870 EXT:5515
Account Representative

www.WakeAssoc.com

EXHIBIT 3